

Assignment for the '778 patent has been included with this filing for the Examiner's convenience.

The Examiner also rejects claims 2, 9, and 12 in view of the '854 and '778 patents and in further view of Nevo and Vacanti under the doctrine of obviousness-type double patenting. As noted above, a Terminal Disclaimer is filed herewith.

#### Duty of Disclosure

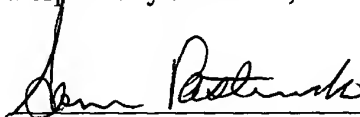
The Examiner states that a copy of the Vacanti, *et al.* reference from *J. Ped. Surg.* listed on Applicant's Information Disclosure Citation submitted on June 22, 1999, was not supplied in parent application 08/056,140. Applicant submits that the reference was made of record by the Examiner in paper 13 (mailed June 15, 1994), during the Prosecution of the '140 application. Nevertheless, a copy of the reference is included herewith for the Examiner's convenience. Applicant requests that the Examiner initial the reference on PTO form 1449 submitted by Applicant on June 22, 1999, and return a copy to Applicant.

#### Rejections under 35 U.S.C. 112

The Examiner rejects claims 11, 12, 14-18, 21, and 22 under 35 U.S.C. 112, first and second paragraph. The rejection is respectfully traversed. Nonetheless, claim 11 has been amended to recite an implant, and dependent claims 12, 14-18, 21, and 22 have been amended to properly refer to the implant of claim 11 or one of the intervening claims. Applicant submits that in view these amendments, claims 11, 12, 14-18, 21, and 22 are allowable.

In light of the foregoing Amendment and Remarks, Applicant respectfully submits that the present case is in condition for allowance. A Notice to that effect is respectfully requested.

Respectfully submitted,



Sam Pasternack  
Registration Number 29,576

Choate, Hall & Stewart  
Exchange Place  
53 State Street  
Boston, MA 02109  
(617) 248-5000  
Dated: November 17, 1999  
Exchange.3064924.1

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner For Patents, Washington, D.C. 20231 on 11/17/99  
